

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Hews Company, LLC

v.

Civil No. 04-cv-292-JM

Bruce Barnaby et al.

O R D E R

At the final pretrial conference held on August 5, 2005, the parties made the following stipulations:

1. In accordance with the judgment that has been entered on Count IV of the Complaint, the parties stipulate that Defendants Bruce Barnaby and Barnaby's Truck & Equipment, Inc., breached a contract with the Plaintiff Hews Company, LLC, and that the Plaintiff's damages were \$446,775.00. The jury may only include in any verdict that may be awarded after trial those damages that the jury finds that the Plaintiff is entitled to recover beyond the \$446,775.00 that the Plaintiff incurred as a result of the Defendants' breach of contract. The jury shall not include in any damage award the breach of contract damages referenced herein.


2. The question of whether the Plaintiff should be awarded attorneys' fees, and if attorneys' fees are awarded the question

of for what period of time, shall be determined by the jury. If the jury finds that attorneys' fees should be awarded, a supplemental hearing will be scheduled and the Court will determine the amount of attorneys' fees that shall be awarded.

3. The Plaintiff will not call Attorney William S. Gannon as a witness at trial if Timothy Keiter's testimony does not go beyond that evidenced in his deposition. Attorney Gannon is to inform the Clerk whether the same stipulation will apply with regard to Ken Linesman's testimony by Tuesday, August 9, 2005.

In addition to the stipulations mentioned above, the Court orders the Defendants to produce to the Plaintiff a privilege log by Tuesday, August 9, 2005. The Court further orders the Defendants to produce to the Plaintiff any documents in Attorney Gannon's file on this matter as to which no privilege claim is being asserted by Tuesday, August 9, 2005.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: August 5, 2005

cc: Timothy J. Bryant, Esq.
Peter G. Callaghan, Esq.
William S. Gannon, Esq.